



## MICHIGAN CHAPTER

Updated: February 3, 2014

To: Chairman Nesbitt and members of the House Energy and Technology Committee

Sierra Club urges a NO vote on HB 4885 (Nesbitt), HB 5254 (Outman), HB 5255 (Stallworth), HB 5274 (Pettalia) – Tax break for enhanced oil and gas recovery and expansion of eminent domain powers for private companies

We appreciate your consideration of our position on House Bills 4885, 5254, 5255, and 5274. The Sierra Club opposes these legislative proposals for the following reasons:

- HB 4885 is a tax break for gas and oil developers that would decrease state revenue from oil/gas development of Michigan's natural resources. Giving more tax breaks and special privileges to oil companies for drilling in our Great Lakes system is not the right decision for Michigan. Enhanced recovery entails pumping substances into closed oil wells to stimulate production of previously unattainable oil, which may have the potential to harm water and air. The focus of this package of bills is the use of carbon dioxide (CO<sub>2</sub>) for enhanced recovery. Fundamentally, we should not be giving tax breaks to companies who put our water at risk. On top of the environmental risks, oil companies do not need tax breaks; they are already one of the most profitable international industries, having achieved record profits both domestically and globally multiple times.<sup>1</sup> Our current severance tax is 6.6% for oil and 5% for natural gas and compared to many other states is already too low. Kansas is set at 8%, Oklahoma at 7%, Texas at 4.6% on oil but 7.5% on natural gas, and Wyoming at 6%.<sup>2</sup> We should not be reducing state revenue to give handouts to oil and gas companies while at the same time creating greater need for environmental monitoring of more production sites.
- HB 5255 expands eminent domain authority for private companies at the expense of private property owners and the public. Eminent domain has historically been allowed in order to advance the interests of the public for utilities or other public infrastructure, such as roads, but not to benefit private industry. Current law allows private property owners to negotiate with the companies and seek a fair and market based deal, rather than being forced into litigation in order to protect their rights in their property. The recent expansion of oil and tar sands pipelines in Michigan has led to many private landowners being subjected to pipeline construction within a few yards of their homes or businesses with effectively no say over the location or design of these pipelines, even on their own private property. Transport of CO<sub>2</sub> for enhanced recovery is added to the list of allowed purposes, with no apparent assessment of its potential environmental or health impacts, and with no justification for this material being given special status under eminent domain provisions. Giving companies more ability to take private property for the transportation of fossil fuels and pipeline development is the wrong decision for Michigan, for clean water, and for land owners.

- HB 5254 expands the purposes for which eminent domain for pipeline construction can be used, and also limits the information they are required to provide to landowners solely to “owners of agricultural property.” Home owners and owners of other private businesses appear to be left out, even though many of the required information points appear to be equally applicable to these land owners. Thus, eminent domain powers are expanded, while responsibilities to private land owners are reduced. At a minimum, the bill language needs to be changed to require that information be shared with all land owners, not just agricultural property owners. Even with that change, the bill would still be problematic, informing landowners of what pipeline construction will do to their land but leaving little or no room for negotiating a fair deal. This would prioritize the interests of oil and gas companies over Michigan’s private property owners and other land owners.
- HB 5274 adds CO2 pipelines to existing statute anywhere crude oil, petroleum, or natural gas is referenced. However, the bill language in Section 3 (2) seems to remove CO2 operations from being subject to MPSC oversight or restrictions on eminent domain if “the nature and extent of their business is private, and where if in the conduct thereof no public interest is involved.” We believe that if this bill is to move forward, all CO2 pipeline activity must be overseen by the MPSC at a bare minimum, regardless of whether or not the pertinent business is private and would impact the public.
- Some have argued that this package of bills would be a positive step for the environment due to the carbon dioxide sequestration that occurs during enhanced oil recovery operations. However, the benefit of sequestering carbon is negligible at best when you factor in: the intense amounts of energy and virgin resources needed to build a completely new pipeline infrastructure, to liquefy CO2, transport it through the pipelines, drilling or converting a well for CO2 injection, separating the CO2 from the production gas stream, pumping it into these wells, extracting the oil, transporting the oil, and then burning that oil. Ultimately, this package will lead to the release of more greenhouse gas emissions and put our Great Lakes system at risk.
- Some have argued that this proposal would help prevent new oil wells from being drilled, because it would increase production from old/closed wells. However, Bob Mannes, President and CEO of Core Energy LLC, an oil and gas production company, explicitly stated in his testimony during a House Energy and Technology Committee hearing on 1/28/2014 that this policy would also encourage his company (and others) to perform enhanced recovery operations in new oil wells. So ultimately, this would not prevent the drilling of more oil wells in pristine areas as advertised, the burning of more fossil fuels, and the enlargement of greenhouse gas emissions.
- If this bill package moves forward, it will be important for the Department of Environmental Quality and Public Service Commission to have strict safeguards, protections, site-by-site evaluation, and monitoring in place to mitigate the health and safety concerns associated with CO2 enhanced oil recovery operations. The Intergovernmental Panel on Climate Change warns that CO2 pipeline transportation and sequestration have caused safety hazards due to pipeline relief valve failure, weld/gasket/valve packing failure, corrosion and outside forces. The primary health risk associated with CO2 sequestration and pipeline transportation is asphyxiation in low-lying areas, as CO2 is denser than air.<sup>3</sup>

For these reasons, we urge you to vote NO on HB 4885, HB 5254, and HB 5255. Votes pertaining to this bill package will be included in the Sierra Club's legislative scorecard.

Sincerely,

Mike Berkowitz  
Legislative and Political Director  
Sierra Club Michigan Chapter

<sup>1</sup><http://money.cnn.com/2012/07/26/news/companies/exxon-profit/> and  
<http://www.taxpayer.net/library/article/big-oil-big-profits-industry-tops-120-billion-in-2012>

<sup>2</sup><http://www.ncsl.org/research/energy/state-revenues-and-the-natural-gas-boom.aspx>

<sup>3</sup>[http://www.ipcc.ch/pdf/special-reports/srccs/srccs\\_chapter4.pdf](http://www.ipcc.ch/pdf/special-reports/srccs/srccs_chapter4.pdf)